

Comment Response to Dissent

I wanted to briefly comment on David Euchner's dissent. As I have expressed at the meetings, the Criminal Appeals Section of the Attorney General's Office has several similar concerns regarding Division One's extension policy in criminal cases. The policy has had an even greater impact on our office because we cannot control our caseload. We have no safety valve because we cannot send a case to contract counsel when we have a heavy caseload. And, although there has been an increase in the filing of *Anders* briefs, we continue to get several *Penson* orders. See *State v. Thompson*, 229 Ariz. 43, 45, ¶ 3, 270 P.3d 870, 872 (App. 2012) (describing *Penson* orders). Further, our office represents the State in federal habeas proceedings, and after the Supreme Court's decision in *Martinez v. Ryan*, 132 S. Ct. 1309 (2012), our office has had to spend considerably more time on habeas cases because we now typically must address the merits of most of the claims raised by a petitioner.

Extensions of time are not only necessary to protect a defendant's due process rights, but are also necessary to protect the State's interest in defending criminal convictions and ensuring justice is done in each case, which can include concessions of error. We are also mindful of victims' rights to the "prompt and final conclusion of the case after the conviction and sentence," Ariz. Const. art. 2, § 2.1(A)(10), and we seek to have an appeal correctly resolved to ensure final case resolution.

That said, I think setting standards for the Court of Appeals from when a case is at issue to final disposition is a separate matter. As we discussed at the last meeting, the committee was tasked with developing and recommending case processing standards for Arizona appellate courts in light of the national time standards. See Arizona Supreme Court, Administrative Order No. 2015-90. There are, however, no national time standards for measuring the time it takes an intermediate appellate court to resolve cases. Instead of setting a standard that cannot be compared to other courts, it seems more important to have the actual data for how long it takes the Court of Appeals to resolve a case after it becomes "at issue." The committee's recommendation to have this data published annually will keep the Court of Appeals accountable to the other stakeholders and the public. Further, as we discussed at the meetings, having the data will help not only the courts, but also the relevant stakeholders, to see where the delays occur so that steps can be taken to minimize the delays. For these reasons, I agree with the Final Report.

Sincerely,

/s/_____
Alice Jones